

Questions and Answers/November 10, 2010, Webinar

1. Is there a set amount of credits a student can receive each semester when on homebound?

Answer: No. This is a local district decision

2. If BIP attached and it is not related to the disability, the BIP cannot be changed without going through the IEP process (either IEP meeting or amendment). Given that schools are encouraged to be using PBS and writing BIPs for students in need of more intensive behavior supports, do you still believe these should be attached to the IEP?

Answer: IDEA requires that the BIP be a part of the IEP. This can cause extra work, but now that IDEA allows for IEP amendments, it is better than it used to be.

3. For our December 1 count, we have to have a certain percentage of our students in the smallest category of resource time. We have reached the point in our district that in order to meet this percentage; we have to go against the decision of the IEP team as to what is actually best for the child. How can we defend this to a parent?

Answer: While it is great to have a goal – using the State Performance Plan (SPP) indicator on least restrictive environment – to shoot for, the decision as to the least restrictive environment/placement is an IEP team decision. That authority can't be usurped by the school district administration.

4. If you use the triennial documentation form, should that form be attached to the original evaluation report?

Answer: Yes, that's a good idea.

5. If an IEP student is pulled to be homeschooled. Their evaluation comes up during the time they are home. They then return. We reevaluate and they no longer meet eligibility. Do we dismiss?

Answer: Yes.

6. Regarding the private/parochial busing....MSBA is telling us differently, that we do not have to provide busing as long as we meet our proportionate share.

Answer: we will touch base with MSBA to ensure that they understand our position in terms of IDEA compliance.

7. If a district encounters an advocate that is pushing for the district to waive graduation credits, what steps must the district take to insure whether or not it is necessary to waive them?

Answer: I recommend you consult with your school district attorney. But from an IDEA compliance standpoint, your decision clearly must be based on what is appropriate for the student, and you will want to ensure you are not pushing a kid to graduate if he is not ready and you have not done what you need to do in terms of transition planning.

8. Regarding the date of eligibility question--there is some discrepancy in when the date is actually determined, whether it is when the review of data is completed or when the actual evaluation is completed?

Answer: It depends. If the Review of Data reveals no additional information is needed, the date of that decision would be the date of eligibility. If further assessment is needed, then the date of the actual eligibility meeting would be the date of eligibility.

9. For students graduating based on IEP goals, are there any standards in place? For example, some students are "graduating" after being served for 4 years of homebound services focusing on social skills.

Answer: This is an IEP team decision; the team will want to ensure that the student is ready to graduate and that the district met its obligations under IDEA particularly connected to post-secondary transition planning and services.

10. Continuing with the exit of speech student, would we just need to do the RED & NOA?

Answer: reevaluation must be done prior to exiting a child from special education; however, the Review of Existing Data may be sufficient to determine that the child no longer requires special education and related services. The team may determine no further assessments or data collection is necessary. A Notice of Action for change in eligibility would be needed. Indicator 200.340

11. I know that you have talked about transportation ad nauseum, but one more question please. If a school district refuses to transport private school children, what recourse does a parent have?

Answer: I believe a child complaint could be filed – not because the student has an entitlement, but because the allegation is that the district violated IDEA by having an across the board policy of no transportation. I would hope that this could be resolved, however, without the need for a formal child complaint. If the parent called one of our supervisors in the Compliance Section, we could call and talk to the district. They may be confused about the requirement.

12. Can you explain when the actual date of eligibility is determined?

Answer: Eligibility is determined to be the date that a group of qualified professionals, including the parent, meets to determine eligibility and makes a decision.

13. Do you have to have a Notice of Action with the Evaluation Report if you are doing a reevaluation and nothing has changed?

Answer: If there is no change in eligibility or services, no Notice would be required.

14. Can this notice of action for eligibility category be stated on the initial services and placement?

Answer: you can use one notice to address everything if you want to do so.

15. What if a student was evaluated last year (speech) and by the time the next IEP was due she had accomplished all the IEP goals. Can we exit her w/o a triennial evaluation?

Answer: A reevaluation must be done prior to exiting a child from special education; however, the Review of Existing Data may be sufficient to determine that the child no longer requires special education and related services. The team may determine no further assessments or data collection is necessary. A Notice of Action for change in eligibility would be needed. Indicator 200.340

16. Regarding HQT, is it true that if a sped teacher does not assign grades to students then they do not have to worry about completing HQT requirement?

Answer: Yes, if the sped teacher is not the teacher of record then they are appropriately certified with their sped certificate and we do not look at HQT. Only when the sped teacher is the teacher of record assigning the letter grade for the core content do we become concerned with HQT. If the sped teacher is providing the instruction and assigning the grade in the core content then they must be HQ in the core content area. And if they are providing the instruction, then they must also assign the grade.

17. So did you just say that the age is considered through the IQ and grade is considered through the individual academic test? Or can we look at age for both?

Answer: The team must consider how the tests are normed. Generally, IQ tests use age norms, and we recommend grade norms for achievement/academic testing. See Question 4, January 4, 2008, Webinar
http://dese.mo.gov/divspeced/documents/QA1_4_08webinar.pdf.

18. Are there guidelines for when a student should graduate with a regular diploma vs. a modified diploma?

Answer: the Department does have a graduation guidelines document on our web site and it indicates that the expectation is that kids with disabilities will receive a regular diploma if they are graduating by meeting the credit requirements, or by meeting their goals and objectives. There really is no provision for a “modified” diploma.

19. In your May, 2008 webinar you addressed the issue of school districts being penalized (persistence to graduation) for serving students (IEP team decision) to age 21 (beyond the 4-year expectation). This continues to be an issue for districts, when can we expect guidance from DESE?

Answer: States are permitted to ask for an extension to allow for a 6 year period instead of 4 year expectation. Missouri will be requesting this, and we hope it will be effective for next year.

20. With map-a science, can you clarify the new regulation to have a general education science individual listed on the MAP-A Validation form. Does this person need to be certified in general education? Or be someone (sped learning specialist) familiar with science curriculum? Please know that some districts have eliminated the "science teacher."

Answer: There are no new regulations. The U.S. Department of Education has indicated that the MAP-A for science does not pass muster under NCLB; as a result, the Assessment Section of our Department has submitted a proposal for consideration. This proposal does indicate it is best practice to have a science curriculum person involved. However, a special education teacher with core content knowledge in science would be permissible.

21. For which related services is it necessary to evaluate in order to add them to an IEP and doesn't that then trigger the entire process of reevaluation? We had previously been told that related services could be added or deleted at any time though just the IEP since there are no qualifications for them.

Answer: Whether a student requires a related service or related services is an IEP team decision. While there are some related services that would involve an evaluation prior to an IEP team deciding upon them – like physical therapy which requires a doctor prescription – others would not involve any evaluation – like parent training.

22. When related services are determined to be needed during an eligibility, how is it addressed on the evaluation report? Is mentioning it in the recommendations sufficient or does information have to be on the determination page explaining why the related services are needed?

Answer: The IEP would be the document that reflects decisions about related services.

23. Does the school have to write a NOA that is attached to the evaluation report which indicates what the identification is and what was considered or does the evaluation report cover this?

Answer: There must be a written notice of action that addresses the category of eligibility/identification. This is true even though the evaluation report provides for this.

24. If the IEP team has determined that a home school student requires services in multiple areas that would normally (for a student attending public school) be served in the special education setting (a pullout classroom), can the parent choose which services she wants to bring her child to, or are services "all or nothing?"

Answer: There would be no IEP for a home school student, as that is considered non-public/private school; so there would be a Services Plan assuming that the district has decided to serve the child as part of its plan to meet the "proportionate share" expenditure requirement. If the parent only wants to access some services that are outlined or offered in the Services Plan that is permissible.

25. If a parent who is home schooling their child refuses to bring their child on campus to receive services during the day in a classroom setting, must the district provide homebound instruction for special services?

Answer: No. However, the district may need to provide transportation to get the child to the campus to receive the services in the Services Plan, if the child needs that transportation to access the services.

26. The Q and A's that can be printed out afterwards are wonderful. However, to look back and try to find a past answer is very tedious now that the webinars have gone on a year or two. Any possibility that the questions can be grouped by subject somewhere online? (Similar to the Special Ed Compliance FAQs)

Answer: I am afraid not. We just do not have the staff or time to do this; however, during the webinar when this question was asked a few of your colleagues indicated they have had success conducting searches of our website and have been able to find what they needed. I know that some folks have also created their own databases of all the Q & As from my webinars.

27. Regarding Age vs Grade norms on individual achievement tests:

The October 8, 2009 Webinar indicated that DESE's expectations were to use grade level norms on individual achievement tests. We still use the discrepancy model in our district. Most IQ tests use age norms. By comparing age to grade are we getting the most accurate information for eligibility determination using the discrepancy model? We have checked with the special education and psych dept. at MU (Erica Lembke, who consulted Cheryl Offut) and both indicated that age norms are preferred and widely used in other states.

Answer: The Answer remains the same. This is because the language in the federal regulations reference using both age and grade.

28. When a student has transferred into the district and the evaluation report has not been accepted, so a reevaluation is in place, if the student's IEP comes due for its annual review prior to the eligibility determination, what procedures should be followed in

regard to the IEP? Would this be handled the same regardless if the student is an in state or out of state transfer?

Answer: For both in-state and out-of-state transfers:

- Reject IEP – team meets to develop new IEP as soon as possible – dates of previous IEP no longer relevant
- Accept IEP – follow old IEP until evaluation is completed, OR, if annual review date falls within the evaluation period, team meets to review/revise IEP prior to the annual review date

We don't believe the previous IEP can be extended or the dates of implementation changed by amendment. In the case where the out of state transfer, where they clearly disagreed with the evaluation and are conducting an evaluation, the issue boils down to whether you accepted the IEP. If you didn't and an evaluation is taking place, you may have decided to place the child in regular education, and if that is the case the annual review date becomes irrelevant.

29. If you have a YCDD diagnosis from ECSE and the student is currently in Kindergarten and getting ready to age out of that diagnosis, do we have to retest the area of speech - if the team concluded at the end of the Review of Existing Data form that further testing was not needed and that diagnosis is still appropriate. We will test in other areas. The speech pathologist did not know if she needed to retest in her area, since this student has the diagnosis of YCDD.

Answer: No retesting is needed. Existing data can be used.